

Commission for Mental Health Developmental Disabilities and Substance Abuse Services

Commission Meeting Minutes

May 13, 2002

Holiday Inn North, Raleigh, NC

Commission Members Present:

Pender McElroy (Chair), Martha Macon, Dorothy Crawford, Pearl L. Finch, William Sims, Paul Gulley, Lou Adkins, Albert Fisher, Bruce Whitaker, Floyd McCullough, Jeanne Fenner, Fredrica Stell, Donald Stedman, George Jones, Raymond Reddrick, Joe Coulter, Bernard Sullivan, Anna Scheyett, Ellen Holliman, Marvin Swartz, Emily Moore and Mansfield Elmore

Commission Members Absent:

Judy Lewis (excused), Lois Batton (excused), Martha Martinat (excused), Ken Gerrard (unexcused), Patricia Chamings (excused)

Division Staff Present (DMH/DD/SAS):

Dr. Richard Visingardi, Director
Tara Larson, Deputy Director
Marilyn Brothers, Hearing Officer
Jill Newkirk
Cindy Kornegay
Susan Collins
Jeff Horton, Division of Facility Services

OTHERS PRESENT:

Jack Blackley (DMH/DD/SAS), Doug Baker (DMH/DD/SAS), Joanne Peterson (Randolph MH/DD/SAS), John Womble (DMH/DD/SAS), Carol Clayton, (NC Council), Stan Slawinski (DMH/DD/SAS), Jim Jarrad (DMH/DD/SAS), Don Willis (DMH/DD/SAS), Val Carmine (DMH/DD/SAS), Charles Franklin (Albemarle MH/DD/SAS), Linda Gunn-Jones (DMH/DD/SAS), Joe Donovan (NAMI), Louis Reddick, Louise Fischer (Advocate Mental Illness MHA of NC), Bill Duffy (Success Inc.), Flo Stein (DMH/DD/SAS), Janice Petersen (DMH/DD/SAS), Art Jones (DMH/DD/SAS), Bob Hedrick (NCCSPC), Diane Pomper (AG office), Philip Veenhuis (DMH/DD/SAS), Morris Godwin (DMH/DD/SAS), Christine Trotter (CLA), Gene Rodgers (Health Force), Cynthia Temoshenko (GACPD), Debbie Kinert (Parent/Consumer), Debra Dihoff (Pitt MH/DD/SAS), James Harris (DMH/DD/SAS), and John Crawford

Handouts:

Child Residential Rules, MH/DD/SAS 2001 Law book, MH News Release, Letter of Intent Grid, Area Program's Initial Phase In List, Advisory Committee Minutes (4/18/02) and Advisory Committee Comments on the State Plan.

Call to Order

Pender McElroy, Chairman, called the meeting to order at 9:10 am. All Commission members, staff and other attendees introduced themselves.

Chairman McElroy informed the Commission that Lois Batton was re-appointed to the Commission.

Approval to Minutes:

Upon motion of Dr. Bruce Whitaker, seconded by Mr. Raymond Reddrick, the Commission members approved the minutes of the Commission meeting held February 11, 2002 with the revision of "Commission Staff Present" to "Division Staff Present." The motion passed unanimously.

Upon motion of Dr. Bruce Whitaker, seconded by Ms.Emily Moore, the Commission members unanimously approved the minutes of the Special Called Meeting of the Commission held April 3, 2002.

Legislative Oversight:

Chairman McElroy announced that the General Assembly bill draft for changes to the Commission for MH/DD/SAS has been distributed. The Legislative Oversight Committee (LOC) is recommending to the Legislature that members of the Commission be professionals, consumers or immediate family members of consumers.

Tara Larson reviewed the Bill Draft 2001-LNz-189(v.9) and Bill Draft 2001-LNz-195 (v.1). These recommendations are from the subcommittees of the LOC, which were looking at the role of the Commission. Both bills have been presented to the full LOC but no action has been taken by the LOC at this time. The next LOC meetings are scheduled for May 16 and May 23, 2002. At that point, the LOC will determine whether to move these bills forward as actual bill drafts.

The Funding Equity Subcommittee of the LOC has not made any recommendations at this point. They are looking at various funding options from other states.

The full LOC has reviewed the State Plan and has submitted comments/changes to the Department for consideration. These comments/changes will be reviewed and appropriate changes will be made in the State Plan.

The Department will present at the next LOC meeting their recommendations and response to the HSRI and MGT Reports. Also, Rich Visingardi will be speaking on Person-Centered Planning.

Question:

Mansfield Elmore questioned the language of the Bill draft 2001-LNz-189, page 4, line 9 concerning administrative assistance to the Commission being provided by the Secretary of HHS.

Response:

Chairman McElroy replied that the Legislature directed DHHS Secretary to provide professional administrative assistance to the Commission. There is no money to provide a separate staff for the Commission. No other commission has staff assistance separate from the Department. Mr. McElroy believes that the Secretary will provide meaningful staff and administrative assistance to the Commission. Members of the Commission can continue to lobby for and request a separate administrative staff in the future.

Prevention Overview:

Flo Stein, Chief of Substance Abuse Services, Janice Petersen from the Governor's Commission on SA, and Art Jones, SA Prevention Coordinator, gave a presentation on the NC Prevention System. Ms. Stein will continue to inform the Commission of progress in the area of the Statewide Prevention Specialist Program. The appropriate rules for this program will be presented at the July Rules Committee meeting.

Temporary Rules:

The following temporary rules were adopted for continued processing into permanent rules:

1. Upon motion of the Rev. Albert Fisher, seconded by Mr. Raymond Reddick, the Commission members unanimously approved the rules for **Residential Recovery Programs** 10 NCAC 14V.4101-.4103.
2. Upon motion of Dr. Donald Stedman, seconded by Ms. Dorothy Crawford, the Commission members unanimously approved the rules for **Opioid Treatment** 10 NCAC 14V.3601; .3602; .3604, with addition language change in 10 NCAC 14V.3604 OPERATIONS page 1, (remove all addresses) and page 3, line 6 A client who is unable to conform to the adaptable mandatory schedule because of the verifiable physical disability may be permitted additional take-home eligibility by the State authority.
3. Upon motion of Dr. Marvin Swartz, seconded by Ms. Emily Moore, the Commission members unanimously approved the **Controlled Substances, Schedule IV** 10 NCAC 45H.0205.

Recognition:

Chairman McElroy, acknowledged and expressed the appreciation of the Commission to Flo Stein, Chief of Substance Abuse Services, for her outstanding leadership in Substance Abuse Services. The Division's Substance Abuse Services Section has been recognized as one of the comprehensive Alcohol Tobacco and Other Drugs (ATOD) programs in the nation.

Date Rape Drug Analogues:

Chairman McElroy informed the Commission that he had been informed by Tara Larson and John Womble that the Legislature had passed a statute in 2001 instructing the Commission to study controlled substance analogues used as "date rape drugs" to determine whether those substances should be added to the schedule of controlled substances, and not later than May 1, 2002 submit its findings and recommendations to the Joint Legislative Oversight Committee on MH/DD/SA Services. Chairman McElroy noted that the Commission was not informed of this legislation until today, and that Division staff had not known of the legislation until recently.

Chairman McElroy asked John Womble, Drug Regulatory Branch Head, to explain this matter to the Commission. Mr. Womble informed the Commission that after review of the matter his staff was recommending that the drug known as "GBL" (Gamma-Butyrolactone) and the related substances: Dihydro-2(3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; Hydroxybutanoic acid lactone; gamma-hydroxy-butyric acid lactone; which are precursors of GBL, should be added to the schedule of controlled substances. Mr. Womble also handed out a list of U. S. Drug Enforcement Administration chemicals, from which he indicated that certain chemicals should also be added to the N.C. schedule of controlled substances.

Upon motion of the Rev. Albert Fisher, seconded by Mr. Floyd McCullouch, the Commission unanimously adopted this recommendation and directed Division staff to forward this recommendation to the Joint LOC on MH/DD/SA Services on behalf of the Commission.

Mental Health Planning Council:

Chairman McElroy recognized Mr. Don Willis, who gave a synopsis of the Mental Health Planning Council. The Mental Health Planning Council is a group comprised of families, consumers and state staff. The charge of this group is to make recommendations to the Department relevant to the improvements of the Federal Block Grants application and to advise the Department on traditional services to adult and children with mental illness and severe mental disturbances. The Planning Council meets every other month from 10am – 12pm, and the meeting is held in Raleigh. All Commission member, who are interested in serving on the State Mental Health Planning Council should contact Mr. Willis, and the appointments will be made by the Secretary of the Department.

Update of Seclusion/Restraint Rules:

Tara Larson presented a report on the Seclusion/Restraint rules. The Department filed the remainder of the Seclusion/Restraint rules with fiscal impact with Rules Review Commission (RRC) and the Office of State Budget in order to comply with Judge Hopkins' order. Neither the Secretary of HHS nor the Office of State Budget signed the revised fiscal note certifying the availability of state funds. All rules were approved by RCC, with the exception of 14J.0206, 14G.0101 and 14J.0210. RCC determined it had no authority to object to the proposed rules due to the lack of a revised fiscal note certifying the availability of the state funds. At this point the Seclusion/Restraint rules approved by the RRC are pending before the 2003 legislative session. RCC objected to 14J .0206 due to ambiguity. The Commission was asked to take action on recommended language changes to address the RRC objection. 14G .0101 and 14J .0210 must be published in the NC Register before RCC can take action on them. A fiscal note must be developed before these two rules can be published.

Upon motion of Ms.Dorothy Crawford, and second by the Rev. Albert Fisher, the Commission unanimously adopted the recommended language changes. The rules in question will be resubmitted to RRC for final approval.

Rules Committee Report:

Mr. Floyd McCullouch reviewed the issues addressed at the April 3, 2002 Rules Committee meeting. Mr. McCullouch recognized the newest ex-officio member of the committee, Joe Donovan.

Advisory Committee Report:

Dr. Paul Gulley reviewed the issues addressed at the April 18, 2002 Advisory Committee meeting. Following are the comments/recommendations that were submitted to Sherry Harrison on behalf of the Commission regarding the State Plan:

- Coordination of Services
- Cost of Services
- Housing
- Availability of Services and Personnel in Rural Areas
- Staff working with universities
- Simplify Consumer/Clients Rights/Ombudsman Process

Dr. Don Stedman reviewed the Universities and Colleges Assistance in Implementing the Mental Health Initiative resolution. Upon motion of Dr. Bruce Whitaker and second by Ms. Martha Macon, the Commission unanimously adopted the resolution reading as follows:

In advocating and supporting the implementation of the new statewide plan for MH/DD/SA Services, the Commission on MH/DD/SAS recognizes that the success of implementation over the next few years will be in large measure dependent on the preparation, availability, and regular professional development of professional and paraprofessional personnel to staff facilities and services. In view of the importance of this need, the Commission recommends (1) that actions be taken as soon as possible to advise the UNC Board of Governors and all professional education and training agencies in North Carolina, including the Area Health Education Centers program, and particularly the two- and four-year institutions of higher education, public and private, about the MH plan and its personnel needs, and (2) that actions be taken by the leadership of DHHS and the Division of MH/DD/SAS to seek coordination and support from all levels of education in North Carolina in implementing the Plan. Similar steps should be taken, as well, with other state agencies outside DHHS, including the SDPI, the Department of Criminal Justice, the Department of Agriculture, and other relevant agencies.

Director's Report:

Dr. Rich Visingardi, Director of DMH/DD/SAS, reported to the Commission on the State Plan. The Division is moving forward with implementation of the State Plan. There are two challenges before the Division in reference to the State plan. The first challenge concerns issues related to the local groups who are opposed to the plan and working through the elements of the Plan. The second issue is the budgetary constraints. Some of the community's elements, in which the division is focusing on are: families with disabilities, concept of community resources, the value of the public system/private system, and a look at Best Practice.

As of May 1, 2002, nineteen (19) counties have sent letters of intent regarding their choice of governance to the DHHS Secretary. All 19 have chosen to remain part of an Area MH/DD/SAS Authority. Currently, 12 of the 39 Area Programs have indicated an interest in being part of the Phase I roll-in mental health reform. Additional Area Programs have expressed interest but have not submitted their proposals to date.

Question by Mr. Floyd McCullouch:

How is the budget crisis affecting the development of community resources?

Response by Dr. Visingardi:

Several options were presented to the General Assembly for review and the Fiscal Research Staff submitted some options. Also, Dr. Visingardi suggested that the Area Programs meet with local advocates, consumers and providers in the communities and begin to talk about how to deal with the budget reductions.

Question by Mr. Floyd McCullouch:

Do you think high pressure on our state facilities will lead to poor discharge planning?

Response by Dr. Visingardi:

The timeline with the state facilities is very clear. Clients will not be released if there are no support and services in place in the communities. At the same time pressure is being put on state facilities to make changes to embrace clients coming out of facilities.

Question by Mr. Pender McElroy:

Dr. Visingardi, can you respond to and comment on the comments on the State Plan which have been made by the Commission's Advisory Committee?

Response by Dr. Visingardi:

Dr. Visingardi noted that the Coordination of Services involves ensuring that individuals know about and are linked with the services and support available in their communities and increasing the community's capacity to provide services and supports. In regards to housing, he stated that housing will be designed to ensure that an individual lives with maximum independence in the least restrictive setting which includes independent single or share living quarters in communities with or without support. Dr. Visingardi stated that one way of looking at the Availability of Services and Personnel in Rural areas is to look at the Financial Strategy of the Funding Fairness and expanding the Provider's Network in communities. Dr. Visingardi also noted that working with the universities will be a tremendous value to our system. In regards to simplifying the Consumer/Client Rights/Ombudsman Process, Dr. Visingardi stated this had been noted and they are working on simplifying the process.

New Business:

Ms. Anna Scheyett distributed a draft letter by Paula Wolf who works with Covenant with NC Children. The Covenant with NC Children organization is seeking organizations and individuals to endorse the distributed letter. The letter is an open letter to Governor Easley and members of the NC General Assembly about the need to invest in our people. All Commission members who are interested in supporting this letter can contact Paula Wolf by email wolf@covenant.g12.com.

Public Comments

Mr. McElroy asked if any member of the public present wished to address the Commission. No public comments were made.

Adjournment

There being no further business to come before the meeting, by unanimous consent the meeting was adjourned at 2:45 pm.

Minutes prepared by Jill Newkirk, Division Staff.